WP(C) 1283/2005

BEFORE

HON’BLE JUSTICE P. G AGARWAL

Heard Mr. N. Dhar, learned counsel for the petitioner and Mr. A.K. Roy, learned counsel for the respondent 1.

This petition under Article 227 of the Constitution of India has been filed by the petitioner who was the defendant No. 5 in the Title Suit No. 8/97 filed by the respondent No. 1 herein as the plaintiff for a decree for an amount of Rs. 33,583.34 as set forth in the Schedule to the plaint. The amount was claimed being the final settlement dues after the retirement of the plaintiff/respondent No. 1. The suit was decreed by the judgment and decree dated 04.06.99 and 30.06.99 respectively.

After 4 and ‰ hears of the aforesaid judgment and decree, the defendant No. 5, i.e. the petitioner herein filed the review application under Order 47 Rule 1 CPC. The review application was accompanied by an application seeking condonation of delay in preferring the review petition. The delay condonation petition has been dismissed by the impugned order dated 06.10.04. Consequently, the review application has also been dismissed. The Trial Court, i.e. the Civil Judge (Sr. Division), Goalpara being not satisfied with the ground assigned for condonation of delay, has dismissed the application. One of the grounds assigned was that since the audit was not complete, disparity in respect of the amount involved in the Title suit could not be detected. It will be pertinent to mention here that the defendant No. 5, i.e. the petitioner herein, did not contest the suit inspite of receipt of notice. The defendant No. 5 was represented by the defendant No. 4, i.e. the Principal of the School.

In the impugned judgment and decree it has been ordered that all other defendants barring the respondent No. 4 would be liable jointly and severely. When the decree was put to execution, the defendant No. 5, i.e. the petitioner herein, filed the review application along with the application seeking condonation of delay.